

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

WELLINGTON INDUSTRIES, INC.,

Petitioner

v.

NATIONAL LABOR RELATIONS BOARD,

Case Nos. 14-1174; 14-1205

NLRB Case No. 7-CA-091271

Respondent

**REPLY OF PETITIONER TO THE NATIONAL LABOR
RELATIONS BOARD'S RESPONSE TO PETITIONER'S
MOTION TO HOLD CASE IN ABEYANCE**

Petitioner, Wellington Industries, Inc. ("Wellington") replies to the National Labor Relations Board's ("Board") Response to Petitioner's Motion to Hold the Case in Abeyance as follows:

1. In its Motion to Hold the Case in Abeyance, Wellington requested that this Court hold this action in abeyance because the underlying NLRB decision in a related action, *Wellington Industries, Inc.*, Board No. 07-CA-061568, *remanded*, D.C. Cir. Nos. 12-1396 and 12-1435 (Aug. 1, 2014) (referred to throughout as "*Wellington II*") was remanded by the D.C. Circuit to the NLRB for further proceedings following the Supreme Court's decision in *NLRB v. Noel Canning*, 134 S. Ct. 2550 (2014).

2. In its Response, the Board has stated that it "does not oppose holding this case in abeyance, but does not agree that it should be held on the basis petitioner suggests." See Board Response at p.1.

3. The Board's Response submits that this case, if held in abeyance, should be held pending the Court's disposition of the lead case, *Wellington Industries Inc. v. NLRB*, D.C. Cir. Nos. 12-1018 and 12-1120 ("*Wellington I*"), which has been briefed and is awaiting resolution of the Board's July 3, 2014 motion to lift abeyance. See Board Response at p. 1-2.

4. Wellington disagrees with the Board's attempted framing of the "key issue" in its Response. With that said, Wellington acknowledges that the ruling on certain issues briefed in *Wellington I*, such as the issue of affiliation between Independent Local Union One and Local UAW 174, are likely to have an impact on issues in this case. Therefore, Wellington does not object to the Board's suggestion that this case should be held in abeyance pending the Court's disposition of the lead case, *Wellington I*, D.C. Cir. Nos. 12-1018 and 12-1120.

5. Additionally, Wellington reiterates that this case should also be held in abeyance pending any further actions which may be taken by the NLRB in *Wellington II*, which could have a direct impact on the rulings at issue in this action.

6. An order holding this case in abeyance will serve judicial economy and prevent the expenditure of the resources of the Court and parties. If the NLRB takes action in *Wellington II* which will impact the rulings at issue in this case, the parties may be forced to re-brief certain issues based on new actions taken by the NLRB, and the Court would therefore be required to expend time reviewing multiple briefs in this action.

7. Further, as the Board submits, the D.C. Circuit's rulings in *Wellington I*, D.C. Cir. Nos. 12-1018 and 12-1120 may also have an impact on the issues at hand in this action.

CONCLUSION

For the foregoing reasons, Wellington respectfully requests an order holding this case in abeyance pending further action to be taken by the NLRB in *Wellington II*, or a definitive indication by the NLRB that no further action will be taken in *Wellington II*. Wellington further submits that it does not oppose the Board's submission that this case should be held in abeyance pending the Court's disposition of the lead case, *Wellington I*, D.C. Cir. Nos. 12-1018 and 12-1120.

Respectfully submitted,

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Dated: October 30, 2014

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Reply of Petitioner to the National Labor Relations Board's Response to Petitioner's Motion to Hold Case in Abeyance** is being served upon all parties in this case by filing a copy of the same with this Court's Electronic Case Filing (ECF) system, which will provide electronic service on all counsel of record in this case, as allowed by the Federal Rules of Appellate Procedure and D.C. Circuit Rule 25(c).

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